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**IN THE
COURT OF APPEALS OF INDIANA**

RICHARD W. COLLIER,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 48A02-0609-CR-806

APPEAL FROM THE MADISON SUPERIOR COURT
The Honorable Dennis D. Carroll, Judge
Cause No. 48D01-0601-FB-26

June 6, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAKER, Chief Judge

Appellant-defendant Richard W. Collier appeals from the sentences imposed by the trial court after Collier pleaded guilty to three counts of Burglary,¹ a class B felony, three counts of Theft,² a class D felony, and Arson,³ a class B felony. In particular, Collier argues that the trial court erroneously imposed consecutive sentences and that the sentences are inappropriate in light of the nature of the offenses and his character. Finding no error, we affirm the judgment of the trial court.

FACTS

On December 23, 2005, Collier broke into the Madison County residence of Marilyn and Larry King. He stole items from the home and started a fire in the Kings' living room to conceal his participation. On December 26, 2005, Collier broke into the Madison County residence of Ernest and Linda Abbott and stole items from their home.

On December 28, 2005, Collier broke into the Madison County residence of Harold and Colleen Hosier. Collier was in the process of stealing items from the home when the Hosiers returned. A Madison County Police Department officer responded to a call regarding the burglary in process and stopped Collier in the area of the Hosiers' residence. During the vehicle stop, the officer observed loose items of jewelry in plain view. Ultimately, searches of Collier's vehicle and person and of the residences of Collier's sister and a friend uncovered items that were later traced to all three burglaries and another residential burglary in Henry County.

¹ Ind. Code § 35-43-2-1.

² I.C. § 35-43-4-2(A).

On January 24, 2006, the State charged Collier with three counts of burglary, three counts of theft, and one count of arson. On July 18, 2006, Collier pleaded guilty as charged. Pursuant to the plea agreement, sentencing was within the trial court's discretion except that there was a twenty-year cap on the executed portion of the sentence. The trial court held a sentencing hearing on August 21, 2006, and sentenced Collier as follows: twelve years on the first burglary count, ten years on each of the two remaining burglary counts, two years on each of the three theft counts, and twelve years on the arson count. The trial court ordered the sentences for the three counts of burglary to be served consecutively, with the remainder of the sentences to be served concurrently, for an aggregate sentence of thirty-two years. Pursuant to the plea agreement, the trial court ordered that Collier receive a twenty-year executed sentence, with twelve years suspended and ten of those years suspended to probation. Collier now appeals.

DISCUSSION AND DECISION

I. Consecutive Sentences

Collier first argues that the trial court erred by ordering some of his sentences to be served consecutively. Sentencing determinations are within the discretion of the trial court. Fuller v. State, 852 N.E.2d 22, 26 (Ind. Ct. App. 2006), trans. denied. Indiana Code section 35-50-1-2(c) provides that in determining whether a defendant's sentences are to be served consecutively or concurrently, the trial court may consider aggravating and mitigating circumstances.

³ I.C. § 35-43-1-1(A)(1).

Moreover, where, as here, the consecutive sentences are not mandated by statute, we must examine the record to ensure that the trial court explained its reasons for selecting the sentence imposed. Id. The trial court’s statement of reasons must include: (1) the identification of all significant aggravating and mitigating circumstances; (2) the specific facts and reasons that led the court to find the existence of each such circumstance; and (3) an articulation demonstrating that the mitigating and aggravating circumstances have been evaluated and balanced in determining the sentence. Id.

The trial court found the following aggravators: the nature and circumstances of the crimes and the fact that there were multiple victims and multiple crimes that occurred on different dates. The trial court also afforded “modest” weight, tr. p. 74, to Collier’s lack of a prior criminal history, cooperation with the investigation, and guilty plea as mitigating circumstances. Concluding that the aggravators outweighed the mitigators, the trial court elected to impose consecutive sentences.

In general, the nature and circumstances of the crimes is a proper aggravating factor. McCann v. State, 749 N.E.2d 1116, 1120 (Ind. 2001). Here, the trial court found that the burglaries involved “unnecessary trashing and damage” to the victims’ homes and personal belongings. Id. at 75. Given these circumstances, we find that this is a proper aggravator.

Additionally, it is well established that the fact of multiple victims or crimes—and here, there were both—constitutes a valid aggravating factor that a trial court may consider in imposing consecutive sentences. O’Connell v. State, 742 N.E.2d 943, 952 (Ind. 2001). That rule is especially strong when, as here, the defendant committed separate crimes against

separate victims. Id. Thus, the trial court properly considered this fact to be an aggravator supporting the imposition of consecutive sentences.

As for the mitigators—Collier’s lack of a prior criminal history and agreement to plead guilty as charged—the trial court afforded them only modest weight, reasoning that Collier reaped a substantial benefit by avoiding trial. Specifically, pursuant to the plea agreement, there was a twenty-year cap on the executed portion of the sentences to be imposed by the trial court. The trial court concluded that, had Collier gone to trial on these charges, he would have faced a far heftier executed sentence. We find that the trial court properly gave only modest weight to these mitigators and that it properly weighed the aggravators against the mitigators. Ultimately, therefore, the trial court did not err by ordering that some of Collier’s sentences be served consecutively.

II. Appropriateness

Collier argues that the sentence imposed by the trial court is inappropriate in light of the nature of the offenses and his character. We are entitled to consider, among other things, aggravating and mitigating factors found—or not found—by the trial court as we conduct an Indiana Appellate Rule 7(B) review. See, e.g., Prowell v. State, 787 N.E.2d 997, 1005 (Ind. Ct. App. 2003) (considering statutory aggravators and mitigators as part of an analysis of the character of the offender); Martin v. State, 784 N.E.2d 997, 1013 (Ind. Ct. App. 2003) (same).

As for the nature of Collier’s offenses, we observe that he took part in a multi-day, multi-victim crime spree. In addition to breaking into homes, stealing possessions, and

setting one fire to conceal his participation, he “trashed” the homes and did “excessive damage” thereto. Tr. p. 74-75.

Turning to Collier’s character, we note that he has a long history of substance abuse and a failure to obtain treatment for his addiction. Appellant’s App. p. 35; Tr. p. 47. Indeed, Collier testified that the reason he committed the burglaries was to fund his drug habit. Tr. p. 32-33, 57; Appellant’s App. p. 106. Although Collier nominally accepted responsibility for the crimes, he stated that he did not “understand why [the crimes] happened,” tr. p. 62, and believed that he was victimized and coerced into committing the crimes by another participant, id. at 65-66. Thus, the trial court questioned whether Collier was actually remorseful in his “heart and his min[d].” Id. at 75. Given the nature of the offenses and Collier’s character, we find that the sentences imposed by the trial court were not inappropriate.

The judgment of the trial court is affirmed.

FRIEDLANDER, J., and CRONE, J., concur.